



Main Office

P.O. BOX 620 / 6413 32nd Street / North Highlands / CA 95660
(916) 334-1221 Estimating / Engineering Fax (916) 334-0562
Accounting Fax (916) 334-8355

Oakland Touchdown – Site Office
450 Burma Road / Oakland CA 94607

08-Apr-2008

MCM-LTR-000354

Mr. Ben Ghafghazi
Resident Engineer
California Department of Transportation
333 Burma Road,
Oakland, CA 94607, USA

PROJECT: Oakland Touchdown
Caltrans Contract No. 04-0120L4
MCM Job No. 307

SUBJECT: Notice of Potential Claim #3

Gentlemen:

In response to Caltrans Letter 626 regarding NOPC #3, MCM has the following comments:

MCM agrees that there was no set amount to be paid under the Supplemental Estimate #7. If Caltrans was indeed acting in the spirit of partnering or even checking MCM's MOH submittals then Caltrans would have alerted MCM that there was a discrepancy in the MOH submitted for the 1.8M CISS Piling for the January Progress Payment.

An amount for the Supplemental Estimate #7 was submitted by MCM to Caltrans. Once again, if Caltrans had been acting in the spirit of partnering then Caltrans would have informed MCM that there was a disagreement in the amount of payment for the Supplemental Estimate #7 and a meeting could have been scheduled to discuss this disagreement. Since Caltrans did not inform MCM of this disagreement, there were no discussions and Caltrans proceeded to pay a different amount from what MCM was asking. As a result of this, Caltrans had to issue another Supplemental payment to make up for the difference in what MCM was asking for on Supplemental Estimate #7 and what was actually paid by Caltrans. As a result of this lack of communication from Caltrans, MCM was forced to wait until Pay Estimate #8, which was released for payment on March 7, 2008, to receive the original amount of payment that should have been received by MCM on February 19, 2008 with Supplemental Estimate #7.

Caltrans should have been aware of their accounting procedures before deciding to change the amount requested for Supplemental Estimate #7 and realized that this problem would occur.

Please find the attached Initial Notice of Potential Claim #3.

Sincerely,

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MCM CONSTRUCTION, INC.

Justyn Webster
Project Engineer

cc:JC, HDM, RM, EP

File: Job #307 7.0, 14.3